

**FILED**

**FEB 16 2006**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TRACY DAVON THOMAS,

Defendant - Appellant.

No. 04-50244

D.C. No. CR-02-00348-CAS-02

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Central District of California  
Christina A. Snyder, District Judge, Presiding

Submitted February 13, 2006<sup>\*\*</sup>

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Tracy Davon Thomas appeals from the 115-month sentence imposed following his jury conviction for conspiracy to commit a bank robbery in violation of 18 U.S.C. § 371; aiding and abetting a bank robbery in violation of 18 U.S.C.

---

<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 2113(a) and 2(a); and witness tampering in violation of 18 U.S.C. § 1512(b).

We have jurisdiction pursuant to 28 U.S.C. § 1291.

We remand to the sentencing court to proceed pursuant to *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc).

**REMANDED.**